

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 22ND OCTOBER 2007 / 30TH ASWINA 1929

Bail Appl..No. 6380 of 2007()

CRIME NO.195/2007OF KAKKUR POLICE STATION
CRMC.1018/07 OF SESSIONS COURT, KOZHIKODE
.....

: PETITIONER/1ST ACCUSED

SHAIJU, S/O. BALAN, AGED 31 YEARS,
SMITHAM, KAVUNGAL THAZHAM, RARICHAN ROAD,
ERANHIPALAM, KOZHIKODE.

BY ADV. SRI.NIRMAL. S

RESPONDENTS: COMPLAINANT/STATE

STATE OF KERALA, REPRESENTED BY
THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
REPRESENTING SUB INSPECTOR OF POLICE,
KAKKUR POLICE STATION.

BY PUBLIC PROSECUTOR SRI.S.U.NAZAR

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION
ON 22/10/2007, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

R.BASANT, J

B.A.No.6380 of 2007

Dated this the 22nd day of October, 2007

ORDER

Application for anticipatory bail. The petitioner is the 1st accused. He is the husband of the defacto complainant. He faces allegations of matrimonial cruelty of the culpable variety punishable under Section 498 A I.P.C. The crime has been registered on the basis of a private complaint filed by the defacto complainant which was referred by the learned Magistrate to the police under Section 156(3) Cr.P.C. The marriage took place on 5.9.05. One child is born in the wedlock. The parties are before the matrimonial court on the basis of allegations and counter allegations raised by them. Subsequent to the filing of the O.P, this complaint has been filed by the defacto complainant before the Magistrate. Investigation is in progress. The petitioner apprehends imminent arrest.

2. The learned counsel for the petitioner prays, the learned Public Prosecutor does not oppose the said prayer and I am satisfied that the petitioner can be granted anticipatory bail. In coming to this conclusion, I take note of the stand taken by the learned Public Prosecutor that there is no allegation of any physical cruelty resulting in injuries. I do also take note of the fact that arrest and incarceration

of the petitioner is likely to mar all possibilities of harmonious reconciliation of the matrimonial disputes. Appropriate conditions can of course be imposed.

3. In the result, the Bail Application is, allowed. The following directions are issued under Section 438 Cr.P.C.

i) The petitioner shall appear before the learned Magistrate at 11 a.m on 29.10.2007. He shall be enlarged on regular bail on his executing a bond for Rs.25,000/- (Rupees Twenty Five thousand only) with two solvent sureties each for the like sum to the satisfaction of the learned Magistrate;

ii) The petitioner shall make himself available for interrogation before the Investigating Officer between 10 a.m and 3 p.m on 30.10.2007 and 31.10.2007 and thereafter between 10 a.m and 12 noon on all Mondays and Fridays for a period of one month. Subsequently the petitioner shall make himself available for interrogation before the Investigating Officer as and when directed by the Investigating Officer in writing to do so;

iii) If the petitioner does not appear before the learned Magistrate as directed in clause (i), directions issued above shall thereafter stand revoked and the police shall be at liberty to arrest the petitioner and deal with him in accordance with law as if those directions were not issued at all;

iv) If the petitioner were arrested prior to his surrender on 29.10.07 as directed in clause (1) above, he shall be released from custody on his executing a bond for Rs.25,000/- (Rupees Twenty Five thousand only) without any sureties undertaking to appear before the learned Magistrate on 29.10.07.

(R.BASANT, JUDGE)

rtr/-